

UNITED STATES DISTRICT COURT

for the
Southern District of Ohio

United States of America)

v.)

SCOTT D. SURGENER)

Case No.

1:19MJ732

MJ. LITKOVITZ

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of June 17, 2019 in the county of Hamilton in the
Southern District of Ohio, the defendant(s) violated:

Code Section

Offense Description

SEE ATTACHMENT A

18 U.S.C. § 2251(a) & (e)

Production of Child Pornography

18 U.S.C. § 2252A(a)(5)(B) & (b)(2)

Possession of Child Pornography

This criminal complaint is based on these facts:

See Attached Affidavit.

☒ Continued on the attached sheet.

Complainant's signature

FB TFO Donald Minnich

Printed name and title

Sworn to before me and signed in my presence.

Date:

10/29/19

Judge's signature

City and state:

CINCINNATI, OHIO

HON. Karen L. Litkovitz

Printed name and title

ATTACHMENT A

COUNT ONE

(Production of Child Pornography)

On or about June 17, 2019, in the Southern District of Ohio and elsewhere, the defendant, **SCOTT D. SURGENER**, did knowingly employ, use, persuade, induce, entice and coerce a minor to engage in sexually explicit conduct as defined in Title 18, United States Code, Section 2256(2), for the purpose of producing visual depictions of such conduct, and said visual depiction was produced using materials that were mailed, shipped, and transported in interstate and foreign commerce by any means, including computer. All in violation of Title 18, United States Code, Section 2251(a) and (e).

COUNT TWO

(Possession of Child Pornography)

On or about August 16, 2019, in the Southern District of Ohio, the defendant, **SCOTT D. SURGENER**, did knowingly possess material, which contained an image of child pornography, as defined in Title 18, United states Code, Section 2256(8)(A), which was produced using materials that had been mailed, shipped and transported in and affecting interstate and foreign commerce by any means, including by computer.

All in violation of Title 18, United States Code, Section 2252A(a)(5)(B) and (b)(2).

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Donald J Minnich, a Task Force Officer with the Federal Bureau of Investigation, being first duly sworn, hereby depose and state as follows:

1. I am a Detective with the Hamilton County Sheriff's Office and have been assigned as a Task Force Officer with the Federal Bureau of Investigation (FBI) since June of 2013. I am currently assigned to investigate matters involving the online exploitation of children, particularly in relation to violations of Title 18, United States Code (U.S.C.) §§§ 2251, 2252, and 2252A, which criminalize the production, possession, receipt, and transmission of child pornography. Prior to joining the FBI Task Force, I was a Hamilton County Sheriff Deputy in Ohio for 22 years. Since joining the FBI Task Force, I have received training and experience in these types of investigations. I have made arrests and have executed search warrants pertaining to these types of investigations.
2. During my career as a Detective and Task Force Officer, I have participated in various investigations involving computer-related offenses and executed numerous search warrants to include those involving searches and seizures of computers, computer equipment, software, and electronically stored information. I have received both formal and informal training in the detection and investigation of computer-related offenses. As part of my duties as a Task Force Officer, I investigate criminal violations relating to child exploitation and child pornography including the illegal production, distribution, transmission, receipt, and possession of child pornography, in violation of 18 U.S.C. §§§ 2251, 2252(a), and 2252A.

3. As a Task Force Officer, I am authorized to investigate violations of laws of the United States and to execute warrants issued under the authority of the United States.
4. Along with other agents and officers of the Federal Bureau of Investigation and other law enforcement agencies, I am currently involved in an investigation of the production of child pornography and possession of child pornography by SCOTT D. SURGENER (hereinafter referred to as "SURGENER"). This Affidavit is submitted in support of a criminal complaint.
5. As part of the investigation, I have reviewed documentation and reports provided by and discussed information with other officers involved in the investigation. For purposes of this Affidavit, I have not distinguished between information of which I have direct knowledge and that of which I have hearsay knowledge.
6. This Affidavit does not contain every fact known to the investigation, but only those deemed necessary to demonstrate sufficient probable cause to support the charge alleged in the complaint.

BACKGROUND OF INVESTIGATION

7. On August 1, 2019, the Springdale Police Department, Cincinnati Ohio, began an investigation into the sexual assault of a 12 year old female that occurred on or around July 5, 2018.
8. Investigators had the victim forensically interviewed through the Mayerson Center at the Cincinnati Children's Hospital. The victim disclosed that while she was spending the night at her friend's residence her friend's father identified as SCOTT SURGENER laid next to her on the couch while she was sleeping and put her hand on his penis. The

victim removed her hand and rolled over and acted like she was asleep.

9. SURGENER then put his hand down the victim's pants and inserted his finger inside her vagina. The victim pushed his hand away and got up and laid on a dog bed that was in the room.
10. The victim spent the night over SURGENER'S house after this incident but always made sure she slept in her friend's bedroom.
11. SURGENER was interviewed by Springdale Police investigators concerning the incident. SURGENER denied any inappropriate behavior toward any of his daughter's friends. He said that his daughter would often have her friends spend the night. SURGENER retained an attorney and refused any further interviews.
12. On August 16, 2019, SURGENER'S iPhone XR was confiscated by Springdale investigators who obtained a state common pleas search warrant to analyze the contents of the iPhone. The phone was taken to the Regional Electronic Computer Investigations (RECI) office of the Hamilton County Sheriff's office to be forensically downloaded.
13. SURGENER'S iPhone was downloaded and the results were reviewed by your affiant, your affiant observed numerous images that were hidden in a calculator application of a different young female later identified as a 13 year old friend of SURGENER'S daughter. This female is herein after referred to as Minor Victim A.
14. The images show Minor Victim A in stages of undress and nudity. There are images of Minor Victim A exposing her vaginal area while masturbating. There were also two images of SURGENER in a bathroom with Minor Victim A while she is standing naked from the waist down. SURGENER has his hand between her spread legs with his cell phone taking pictures of her vaginal area.

15. Your affiant also observed images of Minor Victim A engaged in oral sex with an adult male. The exif data¹ on the images includes GPS coordinates which show that those images along with several other pornographic images involving Minor Victim A were produced at SURGENER'S residence (as further described below). Specifically, the file names and descriptions of three images located on the phone are as follows:

- 43JPG- This image was produced on June 12, 2019 using an iPhone XR, It shows Minor Victim A standing naked from the waist down in a bathroom. SURGENER is bent down behind her with a cell phone between her legs. The picture shows the reflection in the bathroom mirror fully exposing Minor Victim A's vaginal area. The EXIF data shows that the image was taken at or near SURGENER's residence.
- IMG_7248.HEIC- This Image was produced on June 17, 2019 using an iPhone XR. It shows Minor Victim A laying down with her eyes closed and an adult male standing next to her putting his penis in her mouth. The EXIF data shows that the image was taken at or near SURGENER's residence.
- IMG_7250.HEIC- This Image was produced on June 17, 2019 using an iPhone XR. It shows Minor Victim A lying down with a male hand spreading her buttocks, exposing her vaginal area. The EXIF data shows that the image was taken at or near SURGENER's Residence.

16. Prior to RECI locating the aforementioned images depicting Minor Victim A on SURGENER's iPhone, Springdale Police interviewed Minor Victim A about SURGENER. During that interview, Minor Victim A denied any sexual contact with SURGENER.

17. Your Affiant conducted a law enforcement data base check on SURGENER and located a Scott D. SURGENER residing on 738 Allen Ave. Cincinnati, Ohio 45246

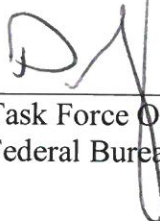
¹ EXIF data, also known as Exchangeable Image File Format, is metadata associated with an image file which can included a host of information such as creation date, location taken, device used, and other various camera settings.

(SURGENER's Residence, as used herein). Your Affiant responded to SURGENER's Residence on October 28, 2019. There was a vehicle in the driveway. There is a detached garage to the right of the residence.

18. Through training and experience, your Affiant knows that iPhones are manufactured outside the state of Ohio.

CONCLUSION

19. Based on the above noted images recovered from SURGENER'S iPhone and other facts listed in the Affidavit, I submit that there is probable cause to believe that SURGENER produced child pornography depicting Minor Victim A in violation of 18 U.S.C. §§ 2251(a) and (e) as well as possessed child pornography in violation of 18 U.S.C. §§ 2252A(a)(5)(B) & 2252A(b)(2).
20. I therefore respectfully request that a criminal complaint be granted upon this affidavit.



Task Force Officer Donald Minnich
Federal Bureau of Investigation

SUBSCRIBED and SWORN
before me this 29th of October 2019



KAREN L. LITKOVITZ
UNITED STATES MAGISTRATE JUDGE